

## REMARKS

Claims 1-8, 11-22, 24-72, 75-120, 122, and 124-127 are pending in the application, of which Claims 1, 13, 20, 27, 46, 58, 65, 77, 82, 85, 100, 106, and 113-118 are independent claims. Claims 85, 100, 106, and 113-118 under 35 U.S.C. § 101; Claims 1-12, 20-45, 58-72, 75, 82-99, 106-112, 113, 115-116, 118-112, 124-127 under 35 U.S.C. § 103; Claims 13-19, 46-57, 77-81, 100-105, 114, and 117 under 35 U.S.C. § 102. In response, the rejections are traversed.

To further clarify the claimed subject matter and narrow the issues, the independent claims have been amended. Support for the amendments can be found at least in FIG. 2-4 of the application as originally filed.

### Regarding Rejections Under Section 101

Claims 85, 100, 106, and 113-118 stand rejected under 35 U.S.C. § 101. The rejections are traversed.

As for Claims 85, 100, and 106, the Office concludes that the claims are not statutory because “the independent claims fails [sic] to meet the machine-or-transformation test.” The rejections are traversed.

First, the claims recite various machine elements. Claim 85 recites at least “a data warehouse”, “a source code file”, an image file, a browser, and “a database”; Claim 100 recites at least “a data archive”; and Claim 106 recites at least “a source code file”, an image file, and “a database”.

Second, the claims also recite transformations. Claim 85 at least transforms a source code file into an image file; Claim 100 at least transforms registration information from one source into a time stamped archived file; and Claim 106 at least transforms a source code file into an image file, information into time stamped archived files, and archived data into a report responsive to solicited information.

Third, any practical application that produces a useful, concrete, and tangible result is also statutory. (See MPEP §2106(IV)(C)(2)). While the Applicant understands that the Office argued in *In re Bilski*, 545 F.3d 943, 88 U.S.P.Q.2d 1385 (Fed. Cir. 2008) (*cert. granted*), that

the machine-or-transformation test is the only suitable test to determine statutory subject matter, the Supreme Court may disagree.

It should also be recognized that even the Federal Circuit in *Bilski* understood that the relevant test is intended as a tool to help identify claims that seek to claim a fundamental principle (laws of nature, natural phenomena, and abstract ideas) or a mental process. Any test that is blindly applied without that issue in mind is believed to be insufficient. Here the Office merely attempts to apply a rigid rule. There is no effort to show that the claimed invention seeks to protect such prohibited subject matter, or even to identify the supposed prohibited subject matter.

Nevertheless, Claims 85, 100, and 106 have been amended to clarify the use of a machine to perform the method steps. This amendment, however, is not believed to alter the scope of the claims.

As for Claims 113-118, the Office asserts that “the claimed invention is directed to non-statutory subject matter” and that “Claim 6 is attempting to patent computer data.” The rejections are traversed.

First, it is not clear how Claim 6 is relevant to Claims 113-118 or why Claim 6 is interpreted to read on computer data. Clarification is requested.

Second, Claims 113-118 recite an article of manufacture comprising “a computer-usable medium” and “a set of computer instructions on the medium”. The Office merely asserts that all limitations recite data. The Office does not explain how a computer-usable medium is data or how computer instructions are data. Instead, the Office merely states that the limitations are data and proceeds to state that data is not a process, machine, composition of matter, or manufacture. In any event, article of manufacture claims drawn to computer-usable mediums are acceptable to the Office as agreed in *In re Beauregard*, 53 F.3d 1583 (Fed. Cir. 1995).

Nevertheless, Claims 113-118 have been amended to clarify that the computer instructions are for operating a computer. This amendment, however, is not believed to alter the scope of the claims.

Reconsideration of the rejections under Section 101 is respectfully requested.

Regarding Rejections Under Section 102

Claims 13-19, 46-57, 77-81, 100-105, 114, and 117 stand rejected under 35 U.S.C. § 102. Claims 13-19, 77-81, and 114 were rejected under Section 102(b) as being anticipated by “Archive” (<http://web.archive.org/web/19980109140106/http://archive.org/>). Claims 46-57, 100-105, and 117 were rejected under 102(c) “as being anticipated by” “Betterwhois.com” in view of “archive.org”. The rejections are traversed.

As for the rejections under Section 102(b), independent Claims 13, 77, and 114 each recite “an archived original content file” and “a searchable electronic index of the archived original content file”.

The Office asserts that Archive teaches an archived original content file. The Office expressly states that “file content is same – name of files changed for cataloging purposes.” However, the Office failed to cite any authority for that statement.

The source file for the Archive reference itself suggests that the Office’s factual assertion is incorrect. Attached as Exhibit A is the HTML source code content of the “Archive” reference as provided by the View Source function of Microsoft Internet Explorer on May 4, 2009. Note at least the following content added to the original HTML:

```
145 <!-- SOME FRAME SRC'S ON THIS PAGE HAVE BEEN REWRITTEN BY THE
WAYBACK MACHINE
146 OF THE INTERNET ARCHIVE IN ORDER TO PRESERVE THE TEMPORAL
INTEGRITY OF THE SESSION. -->
147
148
149 <!--
150 // FILE ARCHIVED ON 19980109140106 AND RETRIEVED FROM THE
151 // INTERNET ARCHIVE ON 20090504193329.
152 // ALL CONTENT MAY BE PROTECTED BY COPYRIGHT (17 U.S.C.
SECTION 108(a)(3)).
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The HTML code includes a reference to the archiving and the archive date and retrieval date. As such, it appears that the archived file content may NOT be the same as the original. Consequently, the Applicant traverses the factual assertion in the Office Action.

In any event, the independent claims recite a searchable electronic index. The Applicant provides a mechanism to search the contents of the archived content files. For example, the Applicant would allow one to search the text within the “Archive” reference. To clarify the

claims, independent Claims 13, 77, and 114 are amended to recite that the archived original content file has “content stored therein” and that the index is of “the content stored within the archived original content file.”

While the Archive reference does track URL’s of archived files, there is no disclosure or suggestion that the content stored within the archived file is searchable.

As for Claims 46-57, 100-105, and 117, the rejection is stated as an anticipation rejection under Section 102(e). For a rejection under section 102 to stand, it must first be based on a single reference. Here, the Office combines two references. In addition, section 102(e) further requires the single reference to be a patent reference. In contrast, the Office relies on non-patent references. Consequently, the rejections are traversed.

Nevertheless, independent Claims 46, 100, and 117 have been amended to clarify the claimed invention. The cited references are discussed below in the discussion of the obviousness rejections. It is believed that the amended claims would obviate any obvious rejection based on the cited references.

As discussed, the independent claims are believed to be patentable and in condition for allowance. Because the allowance of the dependent claims should follow from allowance of their independent claims, the dependent claims are also in condition for allowance. The dependent claims do, however, recite additional patentable subject matter.

Reconsideration of the rejections under Section 102 is respectfully requested.

Regarding Rejections Under Section 103

Claims 1-12, 20-45, 58-72, 75, 82-99, 106-112, 113, 115-116, 118-112, 124-127 under 35 U.S.C. § 103(a). The rejections are traversed. The above arguments with respect to the “Archive” reference are incorporated into the following arguments.

Claims 1-12, 65-72, 75, 113, 119-112, and 124-125 were rejected based on “Archive” in view of “Betterwhois.com”

(<http://web.archive.org/web/19991127110345/http://betterwhois.com/>). First, it is believed that the rejections to Claims 119-112 may be to Claims 119-122. Clarification is requested.

To clarify the claimed invention, independent claims 1, 65, and 113 have been amended. As now recited, the data warehouse includes an archived original content file and an archived registration file. The original content file stored original content and the registration file stores Internet domain registration information. The data in those two files are linked in time.

Furthermore, the original content stored in the original content file is searchably indexed. As such, one can query the original content (e.g. HTML code) using search terms. For example, one entering “domain business” as a query would be presented with results that include the archived home page for “betterwhois.com” from November 27, 1999 because that version of the web page (relied on by the Examiner) includes the searched term “domain business.” The query result also links that archived web page with its archived registration information.

In contrast, one must already know a web page’s URL to use the Internet Archive referenced in the “Archive” reference. No mechanism is provided for searching the content of the archived web pages. Likewise, the “Betterwhois.com” reference requires a known URL or domain name. It then searches a shared database registry to identify the registrar currently holding the registration of the domain name and then queries the appropriate registrar. The information retrieved only indicates the owner information at the time of the query.

The Applicant’s claimed invention solves those deficiencies in the prior art by at least incorporating content searching into a data archive and linking archived web pages with ownership information that is contemporaneous with the archiving process.

Claims 20-26, 82-85, and 115 were rejected based on “Betterwhois.com” in view of “Archive.org.” It is assumed that by “Archive.org” the Office is referring to the “Archive” reference cited in prior rejections. If not, clarification is requested.

As now claimed, independent Claims 20, 82, and 115 recite the storage of registration content in a registration file, the contents of which are searchable. Similar to the above claims, this feature allows one to obtain historical registration information by using a text string query.

Again, neither the “Archive” reference nor the “betterwhois.com” reference disclose or suggest access archived information based on content. In particular, neither reference discusses

the ability to query archived registration files based on their contents. As such, Claims 20-26, 82-85, and 115 are distinguishable from the cited references.

Claims 27-45, 85-99, 116, and 126 were rejected based on U.S. Patent No. 6,271,840 to Fineth et al. in view of “Betterwhois.com.”

As now claimed, independent Claim 27, 85, and 116 recite that a browser-rendered image of a source code file is generated contemporaneously with storage of the source code file in the archive and that the resulting browser-rendered image is itself stored in the archive.

In comparison, Fineth discusses a graphical search index visual index. Fineth’s visual index provides a user with graphical output from a list of URLs. The URL is passed to a web crawler that retrieves the web page at the URL. The graphical information from the web page “is then rendered into a reduced graphical form so that the page may be summarily reviewed by the user.” (Abstract). The user can thus view a thumbnail representation of the web page without having to go directly to the URL.

It is important to note that Fineth obtains the graphical information from the web page currently resident at the URL on the Internet at the time of the query.

In contrast, Claims 27, 85, and 116 require storing information in a data warehouse, including “an image of a browser-rendered display ..., the rendered image file generated contemporaneously with the storage of the source code file and stored in a rendered image file.” While Fineth generates a browser-rendered display, that rendering is done contemporaneously with the viewing of the URL list, not when a web page is archived. Furthermore, Fineth does not teach or suggest storing images of the browser-rendered display in a data warehouse as claimed.

Claims 58-64, 106-112, 118, and 127 were rejected based on Fineth in view of “Betterwhois.com,” and further in view of “archive.org.”

As now amended, independent Claims 58, 106, and 118 recite a particular combination of the above discussed aspects. In particular, the claims recite the archiving of source code files, registration files, and rendered-image files and a mechanism for searching the contents of the

source code files and registration files. The information is linked so that it can be retrieved and reported in response to a query.

As discussed above, the cited references do not disclose or suggest the individual features. Combining the references does not cure any of the deficiencies in the prior art. As such, Claims 58-64, 106-112, 118, and 127 are distinguishable from the cited references.

As discussed, the independent claims are believed to be patentable and in condition for allowance. Because the allowance of the dependent claims should follow from allowance of their independent claims, the dependent claims are also in condition for allowance. The dependent claims do, however, recite additional patentable subject matter.

Reconsideration of the rejections under Section 103 is respectfully requested.

### **CONCLUSION**

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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1  <html>
2    <head>
3      <title>The Internet Archive</title>
4    </head>
5    <frameset border=0 rows="79, *">
6      <noframes>
7
8    <BODY BGCOLOR="#FFFFFF" VLINK="#666666">
9
10   <center>
11     <TABLE BORDER=0 CELSPACING=0 CELLSPACING=6 WIDTH=460>
12       <TR VALIGN="top" ALIGN="left">
13         <TD COLSPAN=5 HEIGHT=20></TD>
14       </TR>
15
16       <TR VALIGN="top" ALIGN="center">
17         <TD COLSPAN=5 ROWSPAN=1 ALIGN="left" VALIGN="center">
18           <IMG HEIGHT=73 WIDTH=368 SRC="images/home_besthd.gif"
19             BORDER=0 ALT="Building a Digital Library" >
20         </TD>
21       </TR>
22
23       <TR VALIGN="top" ALIGN="left">
24         <TD COLSPAN=5 HEIGHT=7></TD>
25       </TR>
26
27       <TR VALIGN="top" ALIGN="left">
28         <TD ROWSPAN=3 ALIGN="right" VALIGN="top">
29           <IMG HEIGHT=101 WIDTH=101
30             SRC="images/home_booksbest.gif"
31             BORDER=0 ALT="Picture" >
32
33         <br><br>
34         <A
35           HREF="acknowledgements.html">Acknowledgements</a><br>
37           <A HREF="board.html">Board Members</a><br>
39           <A HREF="finding_us.html">Finding Us</a><br>
41           <A HREF="news.html">In the News</a><br>
43           <A HREF="webmasters.html">Webmasters</a><br>
45
46         </TD>

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46      <td></td>
47
48
49      <TD ALIGN="left" VALIGN="center">
50          <IMG HEIGHT=15 WIDTH=88 SRC="images/home_mission.gif"
51              BORDER=0 ALT="Our Mission">
52      </TD>
53
54
55      <td></td>
56
57
58
59      <TD ALIGN="left" VALIGN="center">
60
61      </TD>
62  </TR>
63
64  <TR VALIGN="top" ALIGN="left">
65
66
67  <td></td>
68
69
70      <TD COLSPAN=3 HEIGHT=4></TD>
71  </TR>
72
73  <TR VALIGN="top" ALIGN="left">
74      <!-- This column occupied by an object -->
75
76
77  <td></td>
78
79
80      <TD WIDTH=180>
81          <!-- Start of Text object -->
82          <P><font size=3>
83              Internet Archive is collecting and
84              storing public materials from the
85              Internet such as the World Wide
86              Web, Netnews, and downloadable
87              software which are donated by
88              <A HREF="http://www.alexanet.com">Alexa Internet</a>.</p>
89
90          <p>The Archive will provide historians,
91              researchers, scholars, and others
92              access to this vast collection of data
93              (reaching ten terabytes), and ensure
94              the longevity of this information.</font>
95          </P>
96

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```

97         <!-- End Text -->
98     </TD>
99
100
101
102     <TD WIDTH=180>
103         <!-- Start of Text object -->
104         <P><font size=3>
105             For more information about our philosophy and
106             objectives,
107             please read
108             <A HREF="sciam_article.html">
109                 <I>Archiving the Net</I>
110             </A>
111             by the Archive's founder,
112             <A HREF="brewster.html">Brewster Kahle</a>.<br><br>
113
114             <A HREF="mailto:info@archive.org">
115                 <IMG HEIGHT=9 WIDTH=15
116                 SRC="images/email_artsmall.gif"
117                 ALIGN="baseline" BORDER=0 ALT="Email Us">
118                 </A>
119                 <FONT SIZE="-1">&nbsp;  </FONT>
120                 <A HREF="mailto:info@archive.org">
121                     <FONT SIZE="small">info@archive.org
122                 </A></FONT>
123
124     </TD>
125     <TD WIDTH=0><br></TD>
126 </TR>
127
128     <!-- End Text -->
129 <!-- End of the Body for this Page -->
130
131 <!-- Start of the Footer for this Page -->
132
133 <!-- ### Begin Footer (do not remove this line) ### -->
134
135     </TABLE>
136 </CENTER>
137
138 </BODY>
139
140     </noframes>
141     <frame scrolling="no"
142         src="http://web.archive.org/web/19980109140106/http://archive.
143         org/navbar.html" marginheight=10>
144     </frame>

```

```
src="http://web.archive.org/web/19980109140106/http://archive.o
143   rg/home.html" name="main">
144   </frameset>
145   <!-- SOME FRAME SRC'S ON THIS PAGE HAVE BEEN REWRITTEN BY THE
146   WAYBACK MACHINE
147   OF THE INTERNET ARCHIVE IN ORDER TO PRESERVE THE TEMPORAL
148   INTEGRITY OF THE SESSION. -->
149   <!--
150   // FILE ARCHIVED ON 19980109140106 AND RETRIEVED FROM THE
151   // INTERNET ARCHIVE ON 20090504193329.
152   // ALL CONTENT MAY BE PROTECTED BY COPYRIGHT (17 U.S.C.
153   SECTION 108(a)(3)).
154   -->
155   </html>
```